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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,894	02/28/2002	Jason C. Brooke	8266-0783	3459

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,894

Applicant(s)BROOKE ET AL. *ST***Examiner**

Michael J Kyle

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9, 20, 21 and 32-34 is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22, 25-28, 30, and 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross, Jr. (U.S. Patent No. 2,663,048) in view of Lawrence (U.S. Patent No. 746,636).

3. With respect to claim 22, Ross discloses a caster assembly comprising a caster (40), a support shaft (33) coupled to the caster, a support bar (30, 32) rigidly coupled to the support shaft, and pivotally couple to a frame (at 31), and a locking bar (66, 67) configured to move between a first position in which a portion of the locking bar (66) engages the support bar (30, 32), and a second position in which the locking bar is clear of the support bar. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

4. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

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5. With respect to claims 25-27, Ross discloses the locking bars (66, 67) to include pedals (51) to pivot the locking bars between first and second positions. The pedal comprises a U-shaped member at an end of the locking bar. There is a U-shape in the pedal (51) near where it connects to the locking bar (near 50, in figure 5). The locking bars are rotatably coupled to the frame members.

6. With respect to claim 28, Ross discloses a caster assembly comprising a housing, a wheel (40) rotatably supported by the housing, a support shaft (33) coupled to the housing, a support bar (30, 32) coupled to the support shaft, and a locking bar (66, 67) configured to move between a first position in which the locking bar engages the support bar and a second position in which the locking bar does not engage the support bar. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed.

7. Lawrence teaches a caster assembly for a bed where the caster is moved between a position where the bed is mobilized (figure 1) and a position where the bed is immobilized (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed, as shown by Lawrence, as it is known in the art to use adjustable caster assemblies with beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

8. With respect to claims 30 and 31, the locking bar includes a pedal (51) by which the locking bar can be pivoted. The locking bar is also rotatably coupled to the frame member (23).

9. Claims 24 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Lawrence, as applied to claims 22 and 28, respectively, and in further view of Kendall

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(U.S. Patent No. 4,417,738). Ross fails to disclose the support shaft to include a flange that engages the frame member and limits the pivotal movement of the support bars or support shaft in a second direction opposite the first direction.

10. Kendall teaches a retractable caster assembly comprising a caster (34), a support shaft (between 34 and 44), a support bar (48) and a flange (44) connected to the support shaft that engages the frame member (46) in order to restrict the travel of the lever means and engagement point. Restricting the movement also limits the pivotal movement of the support bar and support shaft. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ross as taught by Kendall in order to restrict the travel of the caster assembly.

Allowable Subject Matter

11. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 6-9, 20, 21, and 32-34 are allowed.

Response to Arguments

13. Applicant's arguments filed August 19, 2004, regarding claims 22-31, have been fully considered but they are not persuasive. Applicant argues that Ross does not disclose the first and second positions of the locking bar, as claimed, and that stops 66 and 67 of Ross are not locking bars. Examiner respectfully disagrees. Examiner asserts that Figures 1 and 2 of Ross show the claimed first and second positions of a locking bar 66, 67. Additionally, Ross states, "the stops

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66 and 67 prevent collapse of the retractable caster unit” (column 4, lines 64-65). Examiner considers this to describe a locking function by the stops 66 and 67, and therefore considers the stops 66 and 67 to meet the limitations of the claimed locking bars.

14. The remainder of applicant’s arguments rely on the allegation of patentability of claims 22 and 28. However, as discussed above, examiner disagrees. Therefore, the rejection of these claims is maintained.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

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18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk



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